

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 16124/PCT ge	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/EP2004/007956	International filing date (day/month/year) 16.07.2004	Priority date (day/month/year) 16.07.2003	
International Patent Classification (IPC) or national classification and IPC B01L3/00, A01N1/02, F25D25/00			
Applicant FRAUNHOFER GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V.			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. (*sent to the applicant and to the International Bureau*) a total of 5 sheets, as follows:
 - sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. (*sent to the International Bureau only*) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2004/007956

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:

- international search (Rule 12.3 and 23.1(b))
- publication of the international application (Rule 12.4)
- international preliminary examination (Rule 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

the international application as originally filed/furnished
 the description:

pages 1-20 as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

the claims:

nos. _____ as originally filed/furnished

nos.* _____ as amended (together with any statement) under Article 19
26.10.2005 with letter

nos.* 1-27 received by this Authority on of 26.10.2005

nos.* _____ received by this Authority on _____

the drawings:

sheets 1/3-3/3 as originally filed/furnished

sheets* _____ received by this Authority on _____

sheets* _____ received by this Authority on _____

a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. The amendments have resulted in the cancellation of:

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

the description, pages _____
 the claims, nos. _____
 the drawings, sheets/figs _____
 the sequence listing (*specify*): _____
 any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/EP2004/007956

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	<u>1-27</u>	YES
	Claims		NO
Inventive step (IS)	Claims	<u>1-27</u>	YES
	Claims		NO
Industrial applicability (IA)	Claims	<u>1-27</u>	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

This report refers to the following documents:

D1: DE 101 44 925 A (FRAUNHOFER GES FORSCHUNG) 27
March 2003 (2003-03-27)

D2: DE 43 00 231 C (SCHULZ PETER) 2 December 1993
(1993-12-02).

1. Novelty and Inventive Step (PCT Article 33)

1.1 **Claim 1:** The present application shows a stack of support plates for reception and cryopreservation of a multiplicity of samples. The support plates have a compartmental arrangement with a plurality of sample reservoirs and are connected by an anchor pin through a bearing bore in the plates such that a support plate can swivel about the anchor pin to swing out from the stack. The prior art discloses support plates for cryopreservation that take a CD form and thus can be stacked (see in D1 the description of the prior art and figures 12 and 13). However, CD supports of this kind are not swivelled out for examination but rather must be removed from the stack individually by means of

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automated processes. The present application solves the problem of making available a stack of supports for cryopreservation on which a plurality of samples are deposited such that any given samples on the support plate can be controlled in a simple manner.

D2 discloses petri dishes arranged to pivot about a pin so as to provide simple and rapid access to the sample. A Petri dish does not have a compartmental arrangement with a plurality of sample reservoirs and is designed for only one sample. It is therefore necessary to provide the dish with an articulated projection so as not to alter the view of the sample chamber. This is not necessary in the present application. Hence, it is not obvious to combine the teachings of D1 and D2, and so the subject matter of claim 1 involves an inventive step within the meaning of PCT Article 33(3).

- 1.2 The same is true for independent method claim 22 and use claim 26, though it should be noted that claim 26 should be limited to cryopreservation.